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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/567,037
Filing Date: February 02, 2006
Appellant(s): VAN DE SLUIS ET AL.

Michael Marcin
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 09/13/2010 appealing from the Office action mailed 03/30/2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 1-9.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS."

New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

6,008,0806	NAKAJIMA ET AL.	12-1999
20002/0160817	SALMIMAA ET AL.	10-2002
2001/0019338	ROTH	9-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

- Claims 1-3, 6, 8, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakajima et al. (US Patent No 6008806) in view of Salmimaa et al. (US Patent Application Publication No 2002/0160817-IDS of record).

In reference to claim 1:

Nakajima discloses:

A method of presenting a plurality of items, comprising the steps of: enabling a user to select an item in a selection context, (Col 1:66-67, and Col 2:1-4 –In accordance with a further aspect of the present invention, configuration information about a context menu handler is registered in database configuration information in a data processing system. A user makes a request (by selecting) and, in response to the request, the database is accessed to obtain configuration information about the context menu handler), a selection

context representation representing the selection context (Col 2:6-7 –A shell of an operating system provides at least one menu item for the context menu), *associating said item with said selection context representation* (Col 6:53-56 –In the context menus, a verb is an action that is performed in response to the selection of an associated menu item. For example, the menu item "Open" has an associated verb that opens the file or object –emphasis added); *and presenting a plurality of items including said item in a presentation context in dependence upon a relation between a presentation context representation representing the presentation context and said selection context representation* (Col 2:5-9 –The context menu handler is invoked to add menu items to a context menu of an object. A shell of an operating system provides at least one menu item for the context menu (presentation context), but the context menu handler is used to add at least one additional menu item to the context menu (presentation context) for the object),

Nakajima does not disclose:

the selection context representation including at least a parameter indicating a geographical area; the presentation context representation including at least a parameter indicating a geographical area

However, Salmimaa discloses:

the selection context representation including at least a parameter indicating a geographical area

(Paragraph 11:1-8 –A third embodiment of the invention includes a mobile terminal configured with a microprocessor, a memory, and a display device that displays a plurality of icons. The icons are displayed on the display device using a display format (e.g., size) that relates to the degree with which each icon matches one or more context values, such as time of day, geographic location, or characteristics contained in a user's profile); *the presentation context representation including at least a parameter indicating a geographical*

area (Paragraph 9:9-14; The context values may include dynamically changing information (parameter), such as a current location (geographical area) of the user, so that as the user moves to a different geographic area, different icons are enlarged on the display device. The icons can correspond to application programs; logos (such as a corporate logo); documents; Web sites; or other objects). Thus, It would have been obvious to one ordinary skill in the art at the time the invention was made to combine Salamimaa's method of adding geographical location within Nakajima's extensible context menu because that would enhance Nakajima's context menu presentation by providing the proximity of the user instant location during the time the user interact with the device and display the appropriate location indication within the context display (Salmimaa, Paragraph 27).

In reference to claim 2:

Nakajima discloses:

wherein the relation between said selection context representation and said presentation context representation is determined to exist if said presentation context and said selection context at least partly overlap.

(Col 3:28-35 –A shell extension handler is provided for one of the classes of objects to extend the functionality of the shell relative to that class of objects. The shell extension handler is independent of the operating system and may be provided, for instance, by an application program. The shell extension handler is invoked to extend the functionality of the shell for an object in the class of objects for which the shell extension handler is provided.)

In reference to claim 3:

Nakajima discloses:

wherein a position of said item in said presentation depends on said relation between said presentation context representation and said selection context representation.

(Col 24:24-30 –When the system is about to display a context menu for a file object, the system calls the context-menu handler's QueryContextMenu member function (presentation context). The context-menu handler inserts menu items by position (MF.sub.-- POSITION) directly into the context menu by calling the InsertMenu function. Menu items must be string items (MF.sub.-- STRING), as the following example demonstrates.

In reference to claim 6:

Nakajima does not disclose:

wherein the presentation is personalized for a certain user and the presentation depends on whether the certain user is the user that selected said item.

However, Salmimaa discloses:

wherein the presentation is personalized for a certain user and the presentation depends on whether the certain user is the user that selected said item.

(Paragraph 20, 21, and Refer to FIG 6A, 6B and associated texts)

It would have been obvious to one ordinary skill in art at the time the invention was made to combine Salamimaa's method of differentiating menu context for different users with Nakajima's method because that would enhance the presentation context to display individually personalized context profile for each of the distinct user and their previously used application (Salmimaa, paragraph 6).

In reference to claim 8:

Nakajima discloses:

A storage means including a program executable by a processor of a programmable device to carry out a method.

(Col 5:48-50 –FIG. 1 is a block diagram of a computer system 10 that is suitable for practicing the preferred embodiment of the present invention.)

In reference to claim 9:

Nakajima discloses:

An electronic device, comprising: a selection means for enabling a user to select an item in a selection context (Col 1:66-67, and Col 2:1-4 –In accordance with a further aspect of the present invention, configuration information about a context menu handler is registered in database configuration information in a data processing system. A user makes a request (select) and, in response to the request, the database is accessed to obtain configuration information about the context menu (presentation context) handler), a selection context representation representing the selection context (Col 2:6-7 –A shell of an operating system provides at least one menu item for the context menu), an associating means for associating said item with said selection context representation (Col 6:53-56 – In the context menus, a verb is an action that is performed in response to the selection of an associated menu item. For example, the menu item "Open" has an associated verb that opens the file or object –emphasis added); and a presenting means for presenting a plurality of items including said item in a presentation context in dependence upon a relation between a presentation context representation representing the presentation context and said selection context representation (Col 2 lines 5-9; The context menu (presentation context) handler is invoked to add menu items to a context menu of an object. A shell of an operating system provides at least one menu item for the context menu (presentation context), but the context menu handler is used to add at least one additional menu item to the context menu for the object),
Nakajima does not disclose:

the selection context representation including at least a parameter indicating a geographical area; the presentation context representation including at least a geographical area

However, Salmimaa discloses:

the selection context representation including at least a parameter indicating a geographical area (Paragraph 1:1-8 –A third embodiment of the invention includes a mobile terminal configured with a microprocessor, a memory, and a display device that displays a plurality of icons. The icons are displayed on the display device using a display format (e.g., size) that relates to the degree with which each icon matches one or more context values, such as time of day, geographic location, or characteristics contained in a user's profile), *the presentation context representation including at least a geographical area* (Paragraph 9:9-14 –The context values may include dynamically changing information, such as a current location of the user, so that as the user moves to a different geographic area, different icons are enlarged on the display device. The icons can correspond to application programs; logos (such as a corporate logo); documents; Web sites; or other objects). Thus, It would have been obvious to one ordinary skill in the art at the time the invention was made to combine Salmimaa's method of adding geographical location within Nakajima's extensible context menu because that would enhance Nakajima's context menu presentation by providing the proximity of the user instant location during the time the user interact with the device and display the appropriate location indication within the context display (Salmimaa, Paragraph 27).

- Claims 4, 5, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakajima in view of Salmimaa as applied to claim 1 above, and further in view of Roth (US Patent Application Publication No 2001/0019338).

In reference to claim 4:

Nakajima modified by Salmimaa substantially disclose method set forth in claim 1 above, Nakajima modified by Salmimaa does not disclose:

wherein the presentation of the plurality of items depends on at least one of: a number of times said item has been selected in said selection context and a date of a most recent selection of said item in said selection context.

However, Roth discloses:

wherein the presentation of the plurality of items depends on at least one of: a number of times said item has been selected in said selection context and a date of a most recent selection of said item in said selection context.

(Paragraph 80:1-3 –Frequency control points are awarded based on the number of times that a menu item has been selected in comparison to other menu items in the same menu.)

(Paragraph 68:1-4 –Time stamp field 815 is used to track the last date (most recent) and time that the subject menu item was selected. This field is used for the automatic recency and the automatic time of day control facilities.)

It would have been obvious to one ordinary skill in the art at the time the invention was made to combine Roth's method of selecting the context arrangement with Nakajima's method because Roth's method would provide the means for Nakajima's method to display the number of appearances of individual menu item within the context presentation (Roth Paragraph 6).

In reference to claim 5:

Nakajima modified by Salmimaa substantially disclose method set forth in claim 1 above, Nakajima modified by Salmimaa does not disclose:
wherein the plurality of items are presented in an order in accordance with at least one of: a number of times each of the plurality of items has been selected and a date of a most recent selection of each of the plurality of items.

However, Roth discloses:

wherein the plurality of items are presented in an order in accordance with at least one of: a number of times each of the plurality of items has been selected and a date of a most recent selection of each of the plurality of items.

(Paragraph 10:6-13 –The automatic ranking control feature of the present invention uses one or more heuristic factors to automatically control the order in which menu item are arranged on a given menu. This feature is significant because it allows the menu management mechanism of the present invention to adapt quickly as use patterns change, while still taking historical selection patterns into account.)

(Paragraph 68:1-4 –Time stamp field 815 is used to track the last date (most recent) and time that the subject menu item was selected. This field is used for the automatic recency and the automatic time of day control facilities.)

It would have been obvious to one ordinary skill in the art at the time the invention was made to combine Roth's method of selecting the context arrangement with Nakajima's method because Roth's method which would selectively determine the display arrangement due to the frequency of the usage of the applications would improve the means for determining the heuristic menu arrangement and further enhance the appearance it would display the last appearance within the presentation context more prominently (Roth, Paragraph 5).

In reference to claim 7:

Nakajima does not disclose:

wherein both the selection context representation the presentation context representation include a parameter indicating a geographical area

However, Salmimaa discloses:

wherein both the selection context representation the presentation context representation include a parameter indicating a geographical area

(Paragraph11:1-8 –A third embodiment of the invention includes a mobile terminal configured with a microprocessor, a memory, and a display device that displays a plurality of icons. The icons are displayed on the display device using a display format (e.g., size) that relates to the degree with which each icon matches one or more context values, such as time of day, geographic location, or characteristics contained in a user's profile.)

Nakajima does not disclose:

determining the relation between the selection context representation and the presentation context representation comprises applying a first weight to a relation between the geographical areas

However, Salmimaa discloses:

determining the relation between the selection context representation and the presentation context representation comprises applying a first weight to a relation between the geographical areas

(Paragraph11:1-8 –A third embodiment of the invention includes a mobile terminal configured with a microprocessor, a memory, and a display device that displays a plurality of icons. The icons are displayed on the display device using a display format (e.g., size) that relates to the degree with which each icon matches one or more context values, such as time of day, geographic location, or characteristics contained in a user's profile.)

It would have been obvious to one ordinary skill in art at the time the invention was made to combine Salamimaa's method of adding geographical location within Nakajima's extensible context menu because that would enhance

Nakajima's context menu presentation by providing the proximity of the user instant location during the time the user interact with the device and display the appropriate location indication within the context display (Salmimaa, Paragraph 27).

Nakajima modified by Salmimaa does not disclose:

a parameter indicating a recurring time period,

However, Roth discloses:

a parameter indicating a recurring time period,

(Paragraph 10:6-13 –The automatic ranking control feature of the present invention uses one or more heuristic factors to automatically control the order in which menu item are arranged on a given menu. This feature is significant because it allows the menu management mechanism of the present invention to adapt quickly as use patterns change, while still taking historical selection patterns into account.)

Nakajima modified by Salmimaa does not disclose:

applying a second weight to a relation between the recurring time periods.

However, Roth discloses:

applying a second weight to a relation between the recurring time periods.

(Paragraph 10:6-13 –Time stamp field 815 is used to track the last date and time that the subject menu item was selected. This field is used for the automatic recency and the automatic time of day control facilities.)

It would have been obvious to one ordinary skill in the art at the time the invention was made to combine Roth's method of selecting the context arrangement with Nakajima's method which is modified by Salmimaa 's method of geographical positioning would selectively determines the display arrangement due to the frequency of the usage of the applications and prioritize the most recent appearance prominently would improve the means

for determining the heuristic menu arrangement within the presentation context(Roth, paragraph 6).

(10) Response to Argument

- B. The cited reference Do Not Disclose Or Suggest The Selection Context Representation Including At Least A Parameter Including A Graphical Area. As Recited In Claim 1.

Appellants' Argument:

"Salmimaa does not include any discussion of selection context. The entirety of Salmimaa is directed at displaying icons based on a context value. The context value of Salmimaa may be weighted based on the geographical location of the device. However, what is completely missing from any discussion within Salmimaa is the discussion of a selection context. That is, neither the context value nor the display of the icons has any relationship with a selection context" –emphasis added (Page 5, Last paragraph).

Examiner's Answer:

These raised issues have been addressed by the examiner previously in the advisory action (–See Page 2, 2nd, Paragraph) as well as in the final rejection; however, the examiner will take the opportunity to respond to it again. Examiner disagrees with the appellants because Salmimaa states "The user of the mobile terminal can select any object using a conventional keypad, cursor button, stylus, or the like. In one embodiment, an icon selector, such as a magnifying glass metaphor seen at the far right portion of FIG. 1, can be used to highlight and select a desired icon" –emphasis added (See Salmimaa paragraph [0031]). "Icons that best match one or more context values (parameter) are represented in a display format that is enlarged in relation to

other icons on the display device. The context values (representation of the presentation context) may include dynamically changing information, such as a current location of the user, so that as the user moves to a different geographic area, different icons are enlarged on the display device” –emphasis added (See Salmimaa paragraph [0009]).

That is to say, each icon presented on the mobile device represent a user selectable element (presented context), and each icon displayed according to the context value (parameter), wherein context value (representation of the presentation context) dictates the position and size of the icon to be displayed due to the context value (parameter). Furthermore, user may select a desirable item (icon) out of plurality of items (icons) presented within an appropriate context (selection context); wherein the items are presented according to the context which is directly associated with time of day, geographical area, or user profile characteristic.

Salmimaa also states “The context bar (selection context) includes a plurality of display icons that are arranged in a horizontal, vertical, or mixed fashion. Icons in the context bar (item in the selection context) are organized (representation of the presentation context) according to the degree to which they match one or more context values contained in a user's profile” – emphasis added (See Salmimaa paragraph [0010]); Salmimaa further states “the context bar (selection context) can be selectively activated or hidden according to a user's choice. It will be appreciated that other types of icon selectors can be used without departing from the principles of the invention” (Paragraph [0031]).

Therefore, it is clearly demonstrated that icons (items) are presented for the mobile user to select an icon (item) from the context bar (selection context), and which the icons (items) are presented according to the context value (contained in the user profile), wherein the context value represents the

representation of the context bar, and context values are directly associated or related to time of day, geographical area, or user profile.

Appellants' Argument:

There is no disclosure by Salmimaa of a “*selection context representation including at least a parameter indicating a geographical area.*” That is, Salmimaa does not keep track of past user selections and the location at which those selection were made. (Page 7, Paragraph 1).

Examiner's Answer:

These raised issues have been addressed by the examiner previously in the advisory action (-See Page 2, Paragraph 6) as well as in the final rejection (Page 4, Paragraph 1); however, again the examiner will take the opportunity to respond to it again. Examiner disagrees with the appellants because Salmimaa states “The method includes a step of comparing one or more characteristics associated with each icon to one or more context values (parameter), such as time of day, geographic area, or user profile characteristics. Icons that best match one or more context values (parameter) are represented in a display format that is enlarged in relation to other icons on the display device. The context values may include dynamically changing information, such as a current location of the user, so that as the user moves to a different geographic area, different icons are enlarged on the display device. The icons can correspond to application programs; logos (such as a corporate logo); documents; Web sites; or other objects” –emphasis added (Paragraph [0009]).

Salmimaa also states “One context value that can be used to match icons to display sizes is geographic location or proximity” –emphasis added (Paragraph [0009]). Salmimaa also states “FIG. 6A shows a priority-ordered list of context values contained in a first user's profile. User A has selected proximity of service as the top priority, thus indicating that services having the

closest proximity to the mobile unit (e.g., within a half-mile) should be ranked the highest, and corresponding icons should be displayed the most prominently on the display” (Paragraph [0044]).

Salmimaa also states “suppose that the user of the mobile terminal of FIG. 1 has indicated that the most important criterion for displaying icons on the display is proximity to service. Accordingly, those entities having the closest proximity to the mobile terminal are represented using icons having a larger display format than other icons on the display” emphasis added (See Paragraph [0028]).

Thus, system determines which selectable icon/item should be presented due to the values it corresponds to such as time, geographical area, user profile characteristics, and proximity (parameter represents geographical boundary) is a selectable option for user to select in the ordered list which the ordered list associated with the context value, that is to say, proximity is a parameter provided for an user to select (Refer to FIG. 6A) the geographical proximity which the selection context representation includes from users profile setting. Furthermore, the icons that best represent one or more of these characteristics are presented for display, that means one or more icons which represent the values of that specific context (representation of the presentation context) such as a selectable proximity parameter or a geographical area are displayed distinctly from other icons, and continuously changes icon displaying format according to the context values it represents due to the user position change, or the user’s movement.

In response to the appellants’ argument regarding “keep track of past user selection”, examiner asserts— due to present appropriate icons on the display device, context value (parameter) is used to determine representation of the presentation, wherein such determination is made according to the gathered information such as user profile, wherein user profile includes priority order list which further includes icons that are configured through proximity

indication, and an ordinary skilled artisan would use the user profile to include past user history and experience (-See Salmimaa Paragraph 42-45).

Appellants' Argument:

Salmimaa system does not disclose or suggest the properly interpreted “enabling a user to select an item in a selection context, a selection context representation including at least a parameter indicating a geographical area”, (Page 7, Paragraph 2).

Examiner's Answer:

Examiner disagrees with the appellants because as noted above, Salmimaa states “The user of the mobile terminal can select any object using a conventional keypad, cursor button, stylus, or the like. In one embodiment, an icon selector, such as a magnifying glass metaphor seen at the far right portion of FIG. 1, can be used to highlight and select a desired icon” (See Salmimaa paragraph [0031]).

Thus, each icon presented on the mobile device represent a user selectable element, and each icon displayed according to the context value (parameter), wherein context value (parameter) dictates the position and size of the icon to be displayed on the context bar (representation of the presentation context).

Salmimaa further states “The icons are displayed on the display device using a display format (e.g., size) that relates to the degree with (overlapping weight) which each icon matches one or more context values (parameter), such as time of day, geographic location, or characteristics contained in a user's profile” –emphasis added (See Salmimaa [0011]).

Thus, it is clearly indicative that user is enabled to select an item from one or more items presented on context bar (selection context) of a mobile display device, which the context value (contained in the user profile) is used

for determining the representation of the context bar presentation, wherein such determination is made according to the gathered information such as priority-ordered list of context value, current geographical area the device located, further user profile, time of the day.

Appellants' Argument:

Claim 9 recites "a selection means for enabling a user to select an item in a selection context, a selection context representation representing the selection context, the selection context representation including at least a parameter indicating a geographical area". Thus it is respectfully submitted that the rejection of claim 9 should be withdrawn for at least the reasons discussed above with reference to claim 1 (Page 7, Paragraph 4).

Examiner's Answer:

Similar arguments of appellant's have been addressed through Advisory Action; however, examiner will further elaborate the clarification as examiner does not agree with appellants' argument because Salmimaa states "The user of the mobile terminal can select any object using a conventional keypad, cursor button, stylus, or the like. In one embodiment, an icon selector, such as a magnifying glass metaphor seen at the far right portion of FIG. 1, can be used to highlight and select a desired icon" –emphasis added (See Salmimaa paragraph [0031]).

Thus, each icon presented on the mobile device context bar (selection context) is a user selectable item/element, and each icon displayed according to the context value which the context value represents presentation of the context bar (selection context), wherein context values (parameter) associated with user selectable proximity or geographic area, and dictates the position and size of the icon to be displayed withn mobile device's context bar according to the said proximity value. That is to say, user may select a desirable item (icon)

out of plurality of items (icons) presented within an appropriate context; wherein the items are presented in that said context according to the context value which is directly associated with time of day, geographical area, or user profile characteristic parameters.

Furthermore, Salmimaa also states “the context bar (selection context) can be selectively activated or hidden according to a user's choice. It will be appreciated that other types of icon selectors can be used without departing from the principles of the invention” –emphasis added (Paragraph [0031]).

Therefore, it is clearly demonstrated that representation of presentation context depends upon the time parameter, geographical location parameter, and user profile characteristic parameter, and according to this specific context values (parameters) the icons are displayed on display device enable the user to select desirable item.

Salmimaa also states “In one embodiment, a user of terminal 401 can modify context values (order list) contained in storage area 408 using a keypad, cursor, stylus, or similar input device associated with display 412. An optional icon selector function 411, for example a magnifying glass selector, allows the user to move over icons on the display to depict further information regarding the icons and to temporarily enlarge icons of potential interest. Other icon selectors can of course be used without departing from the inventive principles. Application launcher 410 launches an application associated with the selected icon in response to further user input. For example, application launcher 410 may start a Web browsing application if the particular icon has an associated hyperlink. Alternatively, if an icon represents a document, application launcher 410 can launch a document viewer or editor program” (Paragraph [0038]).

These all indicate that icons which displayed on the mobile device are selectable and configurable by the user of the mobile device, and user may set proximity or geographic selectable items for the said icons to be displayed on said mobile device when device moves to that selectable geographic area.

Appellants' Argument:

Appellants' respectfully submit that Roth fails to cure the deficiencies of Salmimaa discussed above and that Nakajima, Salmimaa, and Roth, taken alone or in any combination, fail to disclose or suggest "enabling a user to select an item in a selection context, a selection context representation including at least a parameter indicating a geographical area," as recited in claim 1 (Page 8, last paragraph).

Examiner's Answer:

As discussed above for claims 1 and 9 Salmimaa alone sufficiently discloses— "enabling a user to select an item in a selection context, a selection context representation including at least a parameter indicating a geographical area", additionally Roth also further discloses "The automatic ranking control feature of the present invention uses one or more heuristic factors to automatically control the order in which menu item are arranged on a given menu. This feature is significant because it allows the menu management mechanism of the present invention to adapt quickly as use patterns change, while still taking historical selection patterns into account. (We use the phrase heuristic factor to generically describe information about past use. Examples of heuristic factors include: frequency of selection, recency of selection, and time of day of selection)" –emphasis added (Roth paragraph [0010]).

In light of above stated Examiner's answers, examiner does not consider Appellants arguments are persuasive for the rejections to the pending claims 1-9 to be withdrawn. Therefore, rejections to the claims 1-9 in the Final Office Action have been maintained.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,
/ZIAUL CHOWDHURY/
Examiner, Art Unit 2192

Conferees:

/Tuan Q. Dam/
Tuan Q. Dam
Supervisory Patent Examiner, Art Unit 2192

/Lewis A. Bullock, Jr./
Lewis A. Bullock, Jr.
Supervisory Patent Examiner, Art Unit 2193